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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY DEPUTY

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ACTION FORECLOSURE SERVICES, INC,)
Plaintiff,)
v.)
UNITED STATES OF AMERICA,)
Defendant.)

Case No. 3:08-CV-00455-W-BLM

**[PROPOSED] ORDER REGARDING
LIEN PRIORITY**

Pursuant to the stipulation of the parties, the Court hereby orders:

1. Petitioner Action Foreclosure Services, Inc. conducted a foreclosure, received excess proceeds, and pursuant to California law, notified all potential claimants of their duty to make a claim within thirty (30) days. Subsequently, the United States of America, the California Employment Development Department (EDD), and Sherill Johnston made timely claims.
2. Action Foreclosure then filed an interpleader in the Superior Court of the State of California, San Diego County, requesting assistance in determining the allocation of funds, and again notified all potential claimants of the opportunity and duty to submit written claims to the Court. Action Foreclosure Services, Inc. deposited the sum of \$76,142.61 as surplus funds to be allocated and paid to proper claimants.
3. The United States then properly removed this action to the United States District Court for the Southern District of California.

1 4. No claimants other than the United States and Sherill Johnston have appeared,
2 submitted claims, or otherwise argued their entitlement to any of the deposited funds in the District
3 Court.

4 5. The EDD filed a Disclaimer of Interest to any of the surplus funds at issue in this
5 action.

6 6. Pursuant to its federal tax liens, the United States claims \$25,380.87 of the surplus
7 funds. Sherill Johnston has agreed to accept the balance of said funds, the sum being \$50,761.74.

8 7. Having reviewed the Declaration, Stipulation, claims, papers and pleadings on file
9 herein, and considered the applicable law and facts, this Court ORDERS as follows:

10 a. The United States of America and Sherill Johnston are the only proper, timely
11 claimants to the funds on deposit pursuant to this action. The funds shall be distributed \$25,380.87
12 to the United States in the form of a check made payable to the U.S. Treasury and forwarded care
13 of Richard Ward to the U.S. Department of Justice, 555 4th Street NW, Room 7607, Washington
14 D.C. 20001. The balance of \$50,761.64, along with any accrued interest shall be forwarded in the
15 form of a check and made payable to Client Trust of Atty. Nachand, care of Law Offices of Charles
16 D. Nachand, 451 So. Escondido Boulevard, Escondido, California 92025;

17 b. The EDD is hereby DISMISSED WITH PREJUDICE from this action;

18 c. No other claims are or shall be allowed;

19 d. The parties shall bear their own fees and costs;

20 e. The holder of said deposited funds is therefore directed and instructed to release
21 said funds, payable as set forth in subparagraph 5(a) above.

22 In light of the foregoing, the clerk is instructed to close the district court file.

23
24 **IT IS SO ORDERED.**

25
26 Dated: 5/29/08



THE HONORABLE THOMAS J. WHELAN
United States District Court